

CHAPTER 65 BULK FOODS

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65-1. Definitions. In this chapter:

1. **APPROVED** means acceptable to the commissioner.
2. **COMMISSIONER** means the commissioner of health of the city of Milwaukee or his or her representative.
3. **COMPOUND FOODS** means a composite food product made of 2 or more separate foods in any proportions for any desired effect or end product.
4. **DELICATESSEN FOODS** means ready-to-eat food products such as cooked or processed meats, prepared salads, cheeses, preserves or relishes.
5. **DIRECT CUSTOMER ACCESS** means the customer is able to directly remove portions of the product from the product module with the appropriate attached hand-held utensil.
6. **DISPLAY AREA** means a location, including physical facilities and equipment, where bulk food is offered for customer self-service.
7. **DISPLAY UNIT** means the rack or cabinetry supporting or containing the product modules.
8. **FOOD** has the meaning specified under s. 97.01(6), Wis. Stats.

9. **MECHANICAL ROOMS** means those areas of a store that contain compressors, electrical panels, water heaters, HVAC equipment or similar equipment.

10. **POTENTIALLY HAZARDOUS FOOD** means any food that consists in whole or in part of milk products, eggs, meat, poultry, fish, shellfish, edible crustacea or other ingredients, including synthetic ingredients, and which is in a form capable of supporting rapid and progressive growth of pathogenic, infectious or toxicogenic micro-organisms. The term does not include any food that has a pH level of 4.6 or below or a water activity (a_w) value of 0.85 or less under standard conditions, or any food product that has been processed to prevent spoilage and is in a hermetically sealed container.

11. **PRODUCT MODULE** means a food contact container or insert for a display unit that is designed to hold and display food in bulk for customer self-service.

12. **RAW AGRICULTURAL PRODUCT** means the unprocessed, natural form of the food portion of a plant whose skin, shell or other outer layer is intact and which is customarily washed or peeled prior to use.

13. **RETAIL BULK FOOD** means processed or unprocessed food in aggregate containers from which quantities desired by the customer are withdrawn by the customer. The term does not include raw whole agricultural products or foods not intended for human consumption.

14. **RETAIL FOOD STORE** means any establishment or section of an establishment where food and food products are offered to the customer and intended for off premises consumption. The term includes retail grocery stores, meat markets, poultry markets, fairs or other establishments or places where food is processed or sold or offered for sale at retail. The term does not include that portion of an establishment that is regulated under ch. HSS 196, Wis. Admin. Code.

15. **SANITIZE** means to destroy pathogens and other organisms to the maximum extent practicable by the application of an approved sanitizer or sanitizing method to food contact surfaces of utensils or equipment which are otherwise clean.

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16. **SERVICING AREA** means a location that is not accessible to the public and designed and equipped for cleaning, sanitizing, drying, storing or refilling product modules or for preparing bulk food.

17. **SINGLE-SERVICE ARTICLES** means cups, containers, lids, napkins, tissues and packaging materials, including bags and similar articles, that are designed for one-time use only.

65-2. Approval Procedure. **1.** No retail bulk food shall be sold unless the operation has been inspected, found in compliance with ch. ATPC 75, Wis. Admin. Code, and this chapter and licensed as a retail food establishment. In any instance of conflict between ch. ATPC 75 and this chapter, this chapter, being more stringent, shall govern.

2. Plans and specifications for construction of a bulk food display or servicing area shall be submitted to the commissioner to be approved prior to beginning construction. Plans and specifications for construction of any major changes which may alter existing operations, locations, or equipment covered by this chapter which have been previously approved shall be submitted to the commissioner to be approved prior to beginning the changes.

65-3. Display and Dispensing. **1.** The following foods, when displayed unwrapped and in bulk, shall be kept covered or otherwise protected against contamination:

- a. Potentially hazardous foods.
- b. Delicatessen foods, including salads and soups.
- c. Foods with sticky coatings.
- d. Wet foods, including syrup and honey.

2. Foods listed in sub. 1 shall not be available by customer access and shall be either displayed in a sealed packaged form or dispensed by a store employee. This restriction does not apply to foods that constitute a meal as defined in ch. HSS 196, Wis. Adm. Code, and that are served in a store that meets all requirements of ch. HSS 196 and is licensed as a restaurant.

3. Retail bulk foods, other than those food products specified in sub. 1, may be made available by direct customer access, mechanical extractor or controlled gravity flow in accordance with this section.

65-4. Display and Service Areas. **1.** All unpackaged retail bulk food offered for customer self-service in a retail food store shall be displayed in an area which has been approved for such sales.

2. Product modules of food not intended for human consumption, scales intended for weighing of such food and non-food items shall not be located in bulk food display areas.

3. An approved servicing area shall be provided if food is processed or stored or if there is equipment to be washed in sinks.

65-5. Staffing and Training. **1. STAFFING.** The display area shall be under direct observation and serviced by trained store staff of adequate numbers to ensure the constant cleanliness and proper sanitation of such areas and to supervise proper use and procedures by customers.

2. SUPERVISION. The store manager or other person in charge of store operations shall designate a store staffer who has responsibility and authority for the maintenance of the bulk food sales area in the store.

3. TRAINING. a. Retail food store employees engaged in the direct observation of bulk food display areas and in the handling of unpackaged foods in bulk form shall be given appropriate sanitation training including written or posted instructions and cleaning schedules. Copies of all written instructions and schedules shall be made available for inspection by the commissioner upon request.

b. All staff employed in the bulk food section shall be trained in customer observation, product knowledge and the basics of good food handling.

65-6. Equipment and Utensils. 1. **APPROVAL.** All equipment and utensils used in the retail bulk food operation shall meet the design and performance criteria of the National Sanitation Foundation or the Milwaukee health department.

2. **DESIGN.** a. Product module display units shall be easily movable, tightly sealed to the floor, or on legs allowing at least 6 inches clearance, so that floors beneath and adjacent to the display units can be easily cleaned.

b. Product modules with direct customer access from the top shall have a depth no greater than 24 inches.

c. Product modules shall allow clear customer observation of the product unless otherwise specifically approved.

d. Each product module designed for direct customer access shall be equipped with an attached utensil, complete with handle, to be used by the customer in removing food from the module. Such utensil shall be designed to effectively and easily remove the particular product for which it is used. Single-service tissues may be used to remove bakery products from the module.

e. Dispensing utensils shall be stored clean and dry out of the product and shall be attached to the product module or display unit by a length of easily-cleanable material which does not allow the utensil to touch the floor and which is removable to facilitate cleaning. They shall either be stored in a bottomless sleeve or housing attached or adjacent to the display unit or shall otherwise be protected in an approved manner from contamination during storage.

f. Individual product modules shall either be designed to be easily removed by employees from the display unit for servicing or so designed and fabricated that they can be easily and effectively cleaned and sanitized through a manual in-place cleaning procedure that will not contaminate or otherwise adversely affect any bulk food or equipment in the adjoining display area.

g. Product modules designed for direct customer access shall be completely enclosed and protected by close-fitting, individual, self-closing covers.

h. Bulk food which does not require further heat treatment shall be effectively shielded to intercept the direct line between the average customer's mouth and the displayed food when the product module is open. The vertical distance from the average customer's mouth to the floor shall be 4 feet, 6 inches.

3. **MATERIALS.** a. Cloth, burlap or paper bagging shall not be used in or as product modules for the retail display of unpackaged bulk food.

b. Single-service plastic containers, bags, or disposable liners used in or as product modules shall be of food-grade material and of sufficient weight and thickness to resist tears and cuts.

c. Wood may only be used in contact with nuts in the shell and wrapped candy.

d. Individual containers or packages provided to the customer to receive bulk foods shall be of food-grade material, durable, resistant to tears and cuts, sanitary and non-absorbent.

65-7. Handling of Food and Serving Containers. 1. a. Individual serving containers provided to the customer by a retail food store shall be for single-service use and shall be stored and dispensed in a sanitary manner. Containers shall not be returnable for reuse by other customers for purchases of unwrapped foods in bulk form.

b. Containers supplied by the customer shall not be used in a manner which may cause contamination of displayed food. These containers must be weighed by store personnel to obtain the tare weight.

2. Bulk food removed from a product module by a customer may not be returned to the module or offered for resale. A container shall be readily available to the customer for discarding unwanted or excess foods and used tissues.

3. Bulk food returned to the store by the customer shall be promptly discarded except that, where a recall action is in progress or anticipated, returned foods shall be marked and stored separately until disposition is approved by the commissioner.

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4. Any bulk food which has been observed to be handled or exposed in such a manner that contamination is known or suspected shall be promptly discarded.

65-8. Labeling and Content Disclosure. 1. The contents of every product module used for the display and sale of unwrapped, or wrapped but unlabeled food in bulk form shall be conspicuously labeled on the module or posted immediately adjacent to the module and shall be in full view of the public. The label or posted contents shall include:

- a. The common name of the food.
- b. In the case of a compound food, a list of the ingredients used in the manufacture of the food. Ingredients shall be identified by their common or usual names, in descending order of predominance by weight. Any artificial color or flavor and chemical preservatives contained in the product shall be included in the list.
- c. Any health or nutritional information whose disclosure, listing or labeling is required by city ordinance or by state or federal law.
- d. Use instructions, where they are necessary for proper identification or use of the product.

2. No operator of any retail food store shall receive or store any wrapped but unlabeled, or any unwrapped, processed food for resale in bulk form unless the bulk distribution container is accompanied by a label which complies with sub. 1.

3. Every retail food store shall maintain a record of sources from which unwrapped bulk foods were obtained. Records shall be made available for inspection and copying by the commissioner upon request.

4. If a bulk food is not readily identifiable on sight, the retail food store shall provide labels or marking devices which may be used by the customer to identify the contents of the individual self-service containers in which the bulk food is placed.

5. Where special handling or special processing instructions are required for preparation of the product, the retail food establishments shall provide labels with such instructions to the customer to attach to the individual self-service containers.

6. A sign, prominently posted on or near direct access product modules, shall direct the customer to use the attached utensil or tissue provided for each module containing unwrapped bulk foods, instruct on the correct use of the dispensing utensil and warn that other utensils or hands may not be used. More than one sign may be required in large display areas.

7. A sign, prominently posted in the display area, shall inform the customer of the proper procedures for discarding unwanted or excess foods.

8. If foods not intended for human consumption are also sold, scales intended for customer weighing of food for human consumption shall be clearly and prominently labeled "For human food only" and scales intended for customer weighing of food and other items not meant for human consumption shall be clearly and prominently labeled "For items not intended for human consumption." The 2 separate uses shall not be intermixed.

65-9. Food Storage. Food that is stored prior to being offered for bulk sale shall meet all of the following requirements:

1. Food, if removed from the container or package in which it was obtained, shall be stored in a clean, covered, food-grade container except during necessary periods of preparation or service.

2. Food not subject to further washing or cooking before serving shall be stored in a way that protects it against cross-contamination from food that requires washing or cooking.

3. Bulk food shall not be stored with chemicals, insecticides, cleaning compounds, pet foods or any other product not intended for human consumption.

4. Food and containers of food shall not be stored under exposed or unprotected sewer lines, leaking water lines or water lines on which condensation might form, except for automatic fire protection sprinkler heads. The storage of food in toilet rooms, vestibules, garbage and trash storage rooms or mechanical rooms is prohibited.

5. In storage areas, containers of food shall be stored a minimum of 6 inches above the floor in a manner that protects the food from splash and other contamination.

6. All stored food shall be protected and free from pests and pest contamination.

65-10. Sanitation. 1. Display areas and servicing areas shall be maintained in a clean and sanitary condition at all times. Equipment cleaning areas may not be located in an area where recontamination can easily occur, such as a meat cutting area.

2. Product modules, lids, module display units, utensils, equipment and food storage containers shall be maintained in good repair and kept in a clean and sanitary condition.

3. Tongs, scoops, ladles and other equipment used by the customer shall be cleaned and sanitized as often as necessary, but at least once a day. Such equipment shall be taken out of service immediately if contamination occurs by dropping on the floor or by improper handling, improper storage or misuse. The equipment shall be cleaned and sanitized before reuse.

4. Product modules and storage containers shall be cleaned and sanitized prior to restocking with a different product.

5. Whenever contamination of food contact surfaces is observed or suspected, those surfaces shall be cleaned and sanitized immediately.

6. Cleaning and sanitizing facilities shall comply with all the following requirements:

a. A sink in good repair constructed of stainless steel, or other approved material, with at least 2 compartments and an attached drainboard shall be provided for the cleaning of equipment and utensils which are to be cleaned and sanitized manually.

b. Sinks installed after June 30, 1989, shall be in compliance with s. 65-6-1, constructed of stainless steel, and have 3 compartments and 2 integral drainboards.

c. Dishwashing machines, if provided, shall be in compliance with s. 65-6-1 and be installed and operated according to manufacturer's instructions so that equipment and utensils are thoroughly cleaned and effectively sanitized.

7. The store shall be provided with adequate and approved chemical supplies to ensure that cleaning and sanitizing requirements are met.

65-11. Handwashing Facilities. 1. A handwashing sink with hot and cold running water under pressure, soap, and single-service towels shall be provided in the servicing areas where foods are prepared and equipment is washed.

2. A handwashing sink with hot and cold running water shall be located within 50 feet of the display area for the use of the persons who clean and refill product modules. This may be the handwashing sink in the servicing area if it is within 50 feet of the display area and is always accessible to these persons.

65-12. Exemptions for Existing Equipment and Facilities. Except for s. 65-10-6-a, building facilities and equipment in use before October 15, 1993, which do not fully meet all of the design and fabrication requirements of this chapter, shall be acceptable if they are in good repair and capable of being maintained in a sanitary condition.

65-13. Penalties and Enforcement. 1. Any person who violates any provision of this chapter or who fails to obey an order of the commissioner to conform to those provisions shall be liable upon conviction to a Class I penalty as provided in s. 61-15.

2. If a person continues in violation of an order, the person shall be liable for further prosecution, conviction and punishment upon the same order without the necessity of the commissioner issuing a new order.

3. Each day of a continuing violation constitutes a separate offense.

4. Citations may be issued for all violations of this chapter with or without prior order or notice. The stipulation, forfeiture and court procedure set forth in s. 50-25 shall apply.

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LEGISLATIVE HISTORY CHAPTER 65

Abbreviations:

am = amended
cr = created

ra = renumbered and amended
rc = repealed and recreated

rn = renumbered
rp = repealed

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